

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTIAN LEITCH, et al.,

Plaintiffs,

-against-

AMAZON SERVICES.COM LLC,

Defendant.

USDC SDNY
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DATE FILED: 1/5/2024

22-CV-6121 (LGS) (BCM)

**ORDER DENYING HEARING
REQUEST AND MODIFYING
DISCOVERY SCHEDULE**

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed the parties' joint letter dated December 29, 2023 (Joint Ltr.) (Dkt. 130). Plaintiffs have not persuaded the Court that they have a "good-faith basis to believe that defendant has additional documents in its possession, custody, or control that should have been produced" pursuant to ¶ 1 of the Court's Order dated November 21, 2023 (Dkt. 129). The Court notes, in this regard, that plaintiffs' counsel argues only that because the FCLM system "interact[s]" with other Amazon systems in unspecified ways, relevant FCLM data that no longer exists in the FCLM system itself *might* "still reside[] in other systems." Joint Ltr. at 1. Counsel further states that plaintiffs' expert (who has not yet submitted the affidavit that counsel promised to file by January 3, 2024) will opine that "if the data does exist, it will be very easy to extract it." *Id.* This is an insufficient basis for the Court to impose the burden and expense of an evidentiary hearing on the parties.¹

At the parties' request, the Discovery Scheduling Order issued on August 15, 2023 (Dkt. 112) is MODIFIED as follows:

¹ The Court further notes that although plaintiffs' counsel provides a summary of portions of the testimony of defendant's Rule 30(b)(6) witness, as to the capabilities of the FCLM system, he chose not to submit any part of the deposition transcript.

1. Fact Discovery

- a. Requests to admit pursuant to Fed. R. Civ. P. 36 shall be served by **February 22, 2024.**
- b. Depositions pursuant to Fed. R. Civ. P. 30, 31 shall be completed by **March 15, 2024.**
- c. All fact discovery shall be completed no later than **March 29, 2024.**

2. Expert Discovery

- a. All expert discovery shall be completed no later than **May 31, 2024.**
- b. By **January 31, 2024**, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by **May 31, 2024.**

3. Plaintiffs' Motion to Conditionally Certify an FLSA Collective or Rule 23

Class

- a. Plaintiffs shall file any motion for conditional collective or class certification by **June 21, 2024.**
- b. Defendant shall file its opposition by **July 22, 2024.**
- c. Plaintiffs shall file a reply, if any, by **August 5, 2024.**

4. Status Letters and Conferences

- a. Judge Moses will conduct a status conference on **March 6, 2024, at 10:00 a.m.** No later than **February 28, 2024**, the parties shall submit a joint status letter outlining the progress of discovery to date, as well as any settlement

efforts. If no discovery controversies exist at that time, the parties may request that the conference be held telephonically.

- b. By **April 12, 2024** (14 days after the close of fact discovery), the parties shall submit a joint status letter to the Hon. Lorna G. Schofield, as outlined in Rule IV.A.2 of her Individual Rules and Procedures, and, in the event that they have not already been referred for settlement discussions, shall also advise the Court whether or not they request a referral for settlement discussions.
- c. The parties shall contact the chambers of Judge Schofield regarding the scheduling of a pre-motion conference for any summary judgment motions.

Dated: New York, New York
January 5, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge